

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

**FEDERAL DEPOSIT INSURANCE
CORPORATION, as Receiver for
Darby Bank & Trust Co.,**

Plaintiff,

v.

WALTER B. BOWDEN, et al.,

Defendants.

**CIVIL ACTION NO.
4:13-cv-00245-LGW-GRS**

**NOTICE OF FED. R. CIV. P. 30(b)(6) VIDEO DEPOSITION OF
PLAINTIFF**

PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 30(b)(6), Defendants will take the deposition upon oral examination of Plaintiff Federal Deposit Insurance Corporation as Receiver for Darby Bank & Trust Co. ("Plaintiff" or FDIC-R) on June 30, 2015 beginning at 9:00 a.m. at the office of TAYLOR ENGLISH DUMA LLP, 1600 Parkwood Circle, Suite 400, Atlanta, Georgia 30339 and shall continue upon completion.

The deposition shall be taken for purposes of cross-examination, discovery and any other purpose authorized by the Federal Rules of Civil Procedure. The deposition shall be taken before an officer duly authorized by law to administer oaths and shall be recorded by stenographic and videographic means. The

deposition will be taken, pursuant to Fed. R. Civ. P. 30(b)(6), of the officer(s), director(s), managing agent(s), or other person(s) designated by Plaintiff to testify about all matters related to the Topics described in Exhibit A below.

This 29th day of April, 2015.

/s/ Elizabeth Gingold Greenman

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(pro hac vice)

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Counsel for Defendant

J. Christopher Banks

EXHIBIT A

DEFINITIONS

1. “Plaintiff” or “FDIC-R” shall refer to the Federal Deposit Insurance Corporation, as Receiver of Darby Bank & Trust Co.
2. “FDIC-C” shall refer to the Federal Deposit Insurance Corporation in its corporate capacity and shall include any agents, representatives, employees, or attorneys acting on its behalf.
3. “Darby” or the “Bank” shall mean Darby Bank & Trust Co. of Vidalia, Georgia.
4. “Complaint” shall mean the Complaint filed by the FDIC-R in the United States District Court for the Southern District of Georgia on November 8, 2013.
5. “Communication” or “communications” shall mean every manner of transmitting, conveying, requesting, or receiving information, opinions, or thoughts, in any form, including, without limitation, in writing, orally, electronically or otherwise, and with respect to oral communications shall include documents evidencing such communications, such as notes, memoranda or other descriptions of the communication. The term “communication” or “communications” shall include, without limitation, conversations, telephone calls,

text messages, meetings, discussions, conferences, seminars, letters, memoranda, facsimiles, telecopies, telexes, e-mails, and on-line postings.

6. “Subject Loans” shall mean those loans listed on Exhibit A to the Complaint.

7. “Purchase & Assumption Agreement” shall mean the Whole Bank Purchase and Assumption Agreement among Federal Deposit Insurance Corporation as Receiver of Darby Bank & Trust Co., the Federal Deposit Insurance Corporation, and Ameris Bank dated as of November 12, 2010.

8. “Relating to” or “relate(d) to” shall mean constituting, containing, embodying, evidencing, reflecting, identifying, stating, showing, analyzing, supporting, refuting, dealing with, arising from, responding to, referring to, concerning, evidencing, or any other way being relevant to that given subject.

9. “Representative” shall mean any director, member, commissioner, examiner, officer, official, partner, employee, agent, representative, attorney, consultant or authorized person of the referenced entity.

RELEVANT TIME FRAME

The designated topics shall include and encompass all information from January 2005 to the present, unless otherwise indicated below.

DESIGNATED TOPICS FOR DEPOSITION TESTIMONY

1. The facts that the FDIC-R relied upon as the basis for the allegations in the Complaint.
2. The facts that the FDIC-R relied upon in concluding it was appropriate to file suit against each of the Defendants.
3. The specific basis for holding each individual Defendant liable on each of the Subject Loans.
4. The basis and amount of any damages sought by the FDIC-R against any of the Defendants relating to any of the allegations or claims set forth in the Complaint, including but not limited to (a) the amount and calculation of such damages with respect to each of the Subject Loans and (b) the amount of damages sought against each individual Defendant.
5. The FDIC-R's damages mitigation for each Subject Loan.
6. The effects of the U.S. economic decline on Darby's loan portfolio, generally, and the Subject Loans specifically.
7. Any alleged personal benefits or profits that any of the Defendants received by virtue of recommending or approving the Subject Loans.
8. The status (*i.e.* current, past due, or charged-off) of each of the Subject Loans on the date the FDIC was appointed as receiver for the Bank and the

post-closing disposition of each of the Subject Loans and of any collateral security for any of the Subject Loans.

9. The process and reasoning leading to the decision to transfer Darby's loans to Ameris Bank immediately after Darby's closure, including but not limited to the bidding process for Darby's assets, any communications between the FDIC-R and Darby regarding the closure of Darby and/or the acquisition of Darby's assets, and the terms, timing, and drafting of the Purchase & Assumption Agreement.

10. The transfer of Darby's assets to Ameris Bank after Darby's closure.

11. Any reports or information provided to the FDIC-R by Ameris Bank regarding any collection or efforts to collect on any of the Subject Loans or disposition of any collateral of any of the Subject Loans, including but not limited to any reports prepared or submitted pursuant to the Purchase and Assumption Agreement.

12. The FDIC-R's policies, procedures and practices in effect during the period of January 1, 2010 through the present, concerning its collection, preservation and copying of documents, including electronically stored information, from the Bank after its closure.

13. The FDIC-R's collection, preservation and copying of the Bank's documents, including electronically stored information, from the Bank at the time the FDIC-R assumed its role as receiver for the Bank.

14. The preservation, chain of custody, and present location of the Bank's documents, including specifically:

- (a) Original loan files for each Subject Loan;
- (b) Board of Directors meeting packages;
- (c) Board of Directors meeting minutes;
- (d) Directors Loan Committee meeting minutes;
- (e) Directors Loan Committee meeting packages;
- (f) Any and all versions of the Bank's Loan Policies;
- (g) The disposition of any Bank documents which the FDIC-R did not copy or collect.

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of April, 2015, I electronically filed the foregoing NOTICE OF FED. R. CIV. P. 30(b)(6) VIDEO DEPOSITION OF PLAINTIFF with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing upon Counsel of Record:

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